

WEST VIRGINIA SECURITIES COMMISSION

STATEMENT OF POLICY

Specificity in Use of Proceeds

September 29, 2009

This Statement of Policy is adopted by the West Virginia Securities Commission pursuant to the authority of the Securities Commissioner of the State of West Virginia granted under Chapter 32 of the West Virginia Code. The West Virginia Securities Commissioner has determined that the following Statement of Policy relating to specificity in use of proceeds is consistent with public investor protection and is in the public interest. The commissioner may waive any requirement of this Statement of Policy for good cause, as he may determine. The terms used in this Statement of Policy are defined pursuant to the West Virginia Securities Commission Statement of Policy regarding Corporate Securities Definitions unless specifically stated otherwise within this Statement of Policy, or when the context clearly indicates otherwise.

- A.** This Statement of Policy applies to all applications to register by coordination or qualification.
- B.** The issuer's prospectus shall disclose, in a tabular form, for both the minimum and maximum amounts proposed, if applicable, the percentages and dollar amounts of the following:
 - 1.** The estimated cash proceeds to be received by the issuer from the offering;
 - 2.** The purposes for which the proceeds are to be used by the issuer;
 - 3.** The estimated amount to be used for each purpose; and
 - 4.** The order or priority in which the proceeds will be used according to the purposes stated.

C. The issuer's prospectus shall further disclose:

- 1.** The amounts of any funds to be raised from other sources to achieve the purposes stated, the sources of any such funds, and whether the sources are firm or contingent and, if contingent, an explanation of the contingency;
- 2.** If any part of the proceeds is to be used to acquire any property (including goodwill) otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons who have received commissions in connection with the acquisition, and the amounts of any such commissions and any other expense in connection with the acquisition (including the cost of borrowing money to finance the acquisition);
- 3.** If any part of the proceeds is to be used to acquire property in the future, the type of property or business the issuer is seeking, how it will impact the issuer's core business, the acquisition criteria used by the issuer to determine whether or not to acquire such property; and
- 4.** The amount of any proceeds to be used to discharge indebtedness, the terms of the indebtedness including the interest rate, whether the indebtedness includes unpaid salaries to promoters, and if the indebtedness was incurred during the current or previous fiscal year, how the issuer used the proceeds of the indebtedness.

D. The issuer normally may not reserve more than fifteen percent (15%) of the proceeds for working capital or general corporate purposes (or for any other unspecified use). In the event the issuer's business plans require greater flexibility in the use of unspecified proceeds, the issuer shall:

- 1.** Disclose all potential uses of such proceeds with qualifying language that such uses may be subject to change; and
- 2.** Indicate the specific circumstances leading to reallocation and the potential areas of reallocation.

- E.** The issuer must demonstrate that the offering proceeds, together with all other sources of financing currently available to the issuer, are sufficient to sustain the issuer's proposed activities. If such proceeds are insufficient to sustain the issuer's activities for at least twelve (12) months following the offering, the issuer must provide the appropriate risk disclosure in the prospectus.

Glen B. Gainer, III
State Auditor
Commissioner of Securities

By: Lisa A. Hopkins
General Counsel
Senior Deputy Commissioner of Securities

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